IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WA.No. 2251 of 2005(M)

AGAINST THE JUDGEMENT IN WPC.24131/2005 Dated 18/08/2005
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APPELLANT: PETITIONER

AFSAN FOODS PRODUCTS PRIVATE LIMITED,
KAZHANI CHUNGAM, KAVASSERI, PALAKKAD DISTRICT,
REPRESENTED BY ITS MANAGING DIRECTOR,
PAUL JOSEPH.

BY ADV. SRI.R.MURALIDHARAN (AROOR)

RESPONDENTS: RESPONDENTS
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1. COMMERCIAL TAX OFFICER,
III CIRCLE, PALAKKAD.

2. DEPUTY COMMISSIONER (APPEALS),
COMMERCIAL TAXES, PALAKKAD.

BY SR. GOVERNMENT PLEADER SRI M.R.SABU

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD
ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2251 of 2005

Dated, this the 5th day of June, 2007

JUDGMENT

H.L.Dattu, C.J.

The assessee is a dealer registered under the provisions of the Kerala General Sales Tax Act. The assessing authority has completed the assessment in the assessee's case for the assessment years 2000-01, 2001-02, 2002-03 and 2003-04. Aggrieved by the assessment orders so passed, the assessee has filed appeals before the first appellate authority.

2. In the writ petition filed by the petitioner, the petitioner had sought for the following reliefs viz. (1) to quash Exts.P1 to P4 assessment orders passed by the 1st respondent/assessisng authority, and (2) for a direction to the 2nd respondent/appellate authority to pass appropriate orders on the appeals filed by the assessee.

3. The learned Single Judge, without properly looking into the prayers sought for by the petitioner, has disposed of the writ petition by holding that the issues raised in the writ petition are squarely covered by a decision of this court in W.P.(C) No.27756 of 2004.

4. Aggrieved by the said order passed by the learned Single Judge, the petitioner is before us in this appeal.

5. The first prayer sought for by the petitioner cannot be granted by this court, for the reason, that aggrieved by the orders passed by the assessing authority for the assessment years 2000-01, 2001-02, 2002-03 and 2003-04, he has already filed statutory appeals before the first appellate

authority and the same is pending for consideration. Parallel proceedings are not maintainable. Therefore, the first relief sought for in the writ petition cannot be granted.

6. So far as the second relief is concerned, it is the grievance of the petitioner that the appeals filed by him against the orders of assessment are pending before the first appellate authority and that a direction requires to be issued to the first appellate authority to dispose of the appeals at the earliest.

7. The request of the appellant appears to be reasonable and if it is granted no prejudice would be caused to the Revenue.

8. Therefore, the following:

i. The first prayer sought for by the petitioner is rejected.

ii. A direction is issued to the 2nd respondent/first appellate authority to dispose of the appeals said to have been filed by the petitioner for the assessment years 2000-01, 2001-02, 2002-03 and 2003-04, if it is already not disposed of, as expeditiously as possible, at any rate, within six months from the date of receipt of a copy of this order.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

mt/-